

Before the  
Federal Communications Commission  
Washington, D.C. 20554

FCC MAIL SECTION

OCT 26 2 42 PM '94

MM Docket No. 93-286

DISPATCHED BY

In the Matter of

Amendment of Section 73.202(b)  
Table of Allotments,  
FM Broadcast Stations.  
(Jeffersontown, Shelbyville and  
Richmond, Kentucky)

RM-8377

**REPORT AND ORDER**  
(Proceeding Terminated)

Adopted: October 18, 1994;

Released: October 26, 1994

By the Acting Chief, Allocations Branch:

1. At the request of Channel Chek, Inc. ("Channel Chek"), licensee of Station WLSY(FM), Channel 269A, Jeffersontown, Kentucky, WCBR Radio, Inc. ("WCBR"), licensee of Station WMCO(FM), Channel 269A, Richmond, Kentucky, and Shelby County Broadcasting, Inc. ("SCBI"), licensee of Station WTHQ(FM), Channel 267A, Shelbyville, Kentucky ("petitioners"), the Commission has before it the *Notice of Proposed Rule Making*, 8 FCC Rcd 8251 (1993), proposing the substitution of Channel 268C3 for Channel 269A at Richmond, Kentucky, and the modification of Station WMCO(FM)'s license accordingly. In order to accommodate the upgrade at Richmond, petitioners also requested the substitution of Channel 267A for Channel 269A at Jeffersontown, Kentucky, and the modification of Station WLSY(FM)'s license accordingly; the substitution of Channel 269A for Channel 267A at Shelbyville, Kentucky, and the modification of Station WTHQ(FM)'s license accordingly. Channel Chek and SCBI

filed comments in support of the proposal reaffirming their intention to apply for the respective channels, if allotted.<sup>1</sup> No other comments were received.

2. As indicated in the *Notice*, petitioners stated that the proposed Class A channel substitutions will enable Stations WLSY(FM) and WTHQ(FM) to operate as 6.0 kilowatt facilities. Petitioners claimed that such improvement is in the public interest, since it would increase the efficient utilization of the broadcast spectrum and allow petitioners to better serve their respective service areas. Petitioners also noted that their stations are precluded from upgrades on their present channels with the existing operation, and that the change in channels would allow the stations to upgrade.

3. We believe the public interest would be served by substituting Channel 267A for Channel 269A at Jeffersontown, Kentucky, and by substituting Channel 269A for Channel 267A at Shelbyville, Kentucky, since it would enable Stations WLSY(FM) and WTHQ(FM) to operate at maximum Class A facilities. An engineering analysis has confirmed that all aspects of the proposal comply with the Commission's minimum distance separation requirements. Channel 267A can be allotted to Jeffersontown in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.2 kilometers (3.8 miles) northeast, in order to avoid a short-spacing to Station WKKG(FM), Channel 268B, Columbus, Indiana, and to a construction permit for Station WRZI(FM), Channel 268A, Vine Grove, Kentucky.<sup>2</sup> Channel 269A can be allotted to Shelbyville in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.1 kilometers (3.8 miles) east, to avoid a short-spacing to Station WKYL(FM), Channel 271A, Lawrenceburg, Kentucky.<sup>3</sup> In accordance with Section 1.420(g)(3) of the Commission's Rules, we also modify the license of Station WLSY(FM) to specify operation on Channel 267A in lieu of Channel 269A at Jeffersontown, Kentucky, and the license of Station WTHQ(FM) to specify operation on Channel 269A in lieu of Channel 267A at Shelbyville, Kentucky.

4. In recognition of the Commission's policy concerning the involuntary relocation of an authorized transmitter site, petitioners state that they have a joint agreement consenting to share the cost for change in the authorized transmit-

<sup>1</sup> On November 19, 1993, WCBR filed a notice of withdrawal requesting that its proposal for the substitution of Channel 268C3 for Channel 269A at Richmond, Kentucky, be withdrawn from the instant rule making proceeding, so that Station WMCO(FM) could pursue its request through the "one-step" application process. See *FM Channel and Class Modifications by Application*, 8 FCC Rcd 4735 (1993). We will grant WCBR's request.

<sup>2</sup> The coordinates for Channel 267A at Jeffersontown are North Latitude 38-13-41 and West Longitude 85-30-30.

<sup>3</sup> The coordinates for Channel 269A at Shelbyville are North Latitude 38-12-48 and West Longitude 85-09-13.

We note that the coordinates for Channel 269A at Shelbyville are short-spaced to the proposed site (37-52-21 and 84-19-40) of WCBR's pending "one-step" upgrade application (File No. BPH-931130IA) for Channel 268C3 at Richmond, Kentucky. Since WCBR's proposed application site does not meet technical requirements, it has requested that its application be processed under the contour protection provisions of Section 73.215 of the

Commission's Rules. Section 73.215 allows stations to be short-spaced to other short-spaced assignments, applications and allotments, provided contour protection is achieved. Therefore, applicants requesting short-spaced assignments pursuant to this section, must take into account the ERP and antenna HAAT of the station in the direction of the contours of other short-spaced assignments, applications and allotments. If a directional antenna is proposed, the pattern of that antenna must be used to calculate the ERP in particular directions and meet the additional requirements of Section 73.316. See Section 73.215 of the Commission's Rules; see also *Channel and Class Modifications by Application, supra; Conflicts Between Applications and Petitions for Rule Making to Amend the FM Table of Allotments*, 7 FCC Rcd 4917 (1992), *recon. granted in part*, 8 FCC Rcd 4743 (1993).

ter site for Station WLSY(FM) at Jeffersontown and Station WTHQ(FM) at Shelbyville, as well as the exchange of channels.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **December 12, 1994**, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

City	Channel No.
Jeffersontown, Kentucky	267A
Shelbyville, Kentucky	269A

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Channel Chek, Inc., for Station WLSY(FM), Jeffersontown, Kentucky, IS MODIFIED to specify operation on Channel 267A in lieu of Channel 269A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in Station WLSY(FM)'s license, BLH-900516KC, except the channel as specified above. Any other changes, except for those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH-900516KC, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

7. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Shelby County Broadcasting, Inc., for Station WTHQ(FM), Shelbyville, Kentucky, IS MODIFIED to specify operation on Channel 269A in lieu of Channel 267A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in Station WTHQ(FM)'s license, BLH-891124KA, except the channel as specified above. Any other changes, except for those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH-891124KA, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

8. IT IS FURTHER ORDERED, That at the request of WCBR Radio, Inc., the proposal for the substitution of Channel 268C3 for Channel 269A at Richmond, Kentucky, IS DISMISSED.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Acting Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau